IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.698 OF 2006
WITH
CIVIL APPLICATION NO.941 OF 2006

Dilip Hirji Shah and others ..Appellants

V/s.

Thakibai Vinayak Bhoir and others ..Respondents

Mr.Rajesh S. Datar, advocate for appellants

Coram : D.G.Karnik, J

Date : 21st November, 2006

P.C.

1. Heard learned counsel for the appellants. The suit property originally belonged to Kashinath. The appellants claim to have purchased the property from the son and the widow of Kashinath. Apart from the son and the widow, Kashinath has left behind two daughters. The daughters are not parties to the sale deed. One of the daughters filed the suit from which the present appeal arises for partition and setting aside alienation and has claimed an injunction restraining the appellants from developing the suit property during pendency

of the suit. Injunction was granted by the trial Court. That order is impugned in this appeal.

2. Once the original title of Kashinath is admitted, the respondent being a daughter would get a share in the suit property on death of Kashinath. She has not alienated her share. She is therefore, co-owner of the property. Property cannot be developed without her consent. The trial Court therefore, committed no error in granting the injunction. The appeal is accordingly, dismissed summarily.

(D.G.Karnik, J.)